



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Arnold Schwarzenegger
Governor

45-DAY PUBLIC NOTICE AND COMMENT PERIOD

SECONDARY CONTAINMENT REGULATIONS

Department Reference Number: R-98-21

Office of Administrative Law Notice File Number: Z-06-0509-07

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend title 22, California Code of Regulations, sections 66264.191, 66264.193, 66265.191, and 66265.193.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

A written comment period has been established commencing on May 19, 2006, and closing on July 6, 2006. DTSC will hold a public hearing on the proposed regulations at 10:00 a.m. on July 6, 2006 in the Byron Sher Auditorium, 2nd Floor, 1001 "I" Street, Sacramento, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on July 6, 2006 will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

Due to enhanced security precautions at the Cal/EPA Headquarters Building located at 1001 I Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign-in and badge issuance occur in the Visitor and Environmental Services Center. This Center is located just inside and to the left of the building's public entrance. Depending on their destination and the building security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the

security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

If you have special accommodation or language needs, please contact Mark Abrams, Regulations Coordinator, Environmental Analysis and Regulations Section, at (916) 322-2833 by e-mail at regs@dtsc.ca.gov by June 26, 2006. TTY/TDD users may dial 7-1-1 for the California Relay Service. Speech-to-Speech services are available by calling (800) 735-0373 or via TTY at (800) 735-0193.

AUTHORITY AND REFERENCE

These regulations are being proposed under the following authorities:

Health and Safety Code section 25150. This section grants DTSC authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 25159: Mandate to adopt regulations needed for RCRA Authorization.

Health and Safety Code section 58012: General authority for DTSC to adopt regulations.

These regulations implement, interpret, or make specific the following:

Health and Safety Code section 25150. This section grants DTSC authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 25159: Mandate to adopt regulations needed for RCRA Authorization.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Law

Federal: The technical standards for tanks are identical to those in the current State regulations.

State: Technical standards mirror the federal technical standards for tanks. However, the State standards apply additionally to federally exempted treatment units and handlers of solely non-RCRA hazardous waste.

Policy Statement Overview

The regulatory changes are being proposed in order to clarify and delete outdated, existing regulations for tanks regarding secondary containment requirements.

Proposed Regulations

The regulatory changes are being proposed are mostly nonsubstantive. Specific needs for the regulations are as follows:

- Current regulations impose outdated and unclear requirements which have already passed for secondary containment for tanks and tank systems at permitted, interim status, and generator facilities.
- Current regulations impose complex and unclear requirements for future tank systems which become hazardous waste tank systems (the wastes they hold may be identified hazardous waste in the future). It is necessary to establish separate and simple deadlines for these facilities that may be able to comply with these regulations when they are subject to the secondary containment regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

DTSC has found this rulemaking project to be exempt under CEQA. A draft of the Notice of Exemption (NOE) is available for review with the rulemaking file and the NOE will be filed with the State Clearinghouse when the regulations are adopted.

PEER REVIEW

Under the provisions of Health and Safety code section 57004, peer review is not required because the proposed regulations do not establish a regulatory level, standard or other requirement subject to scientific peer review.

BUSINESS REPORT

DTSC has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3(c).

FISCAL IMPACT ESTIMATES:

Mandates on Local Agencies and School Districts: DTSC has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

Cost or Savings to Any State Agency: DTSC has made a preliminary determination that the proposed regulations will have no impact on State revenue or costs.

Cost or Savings in Federal Funding to the State: DTSC has made a preliminary determination that the proposed regulations will have no impact on Federal revenue or costs.

Effect on Housing Costs: DTSC has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

DTSC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Assessment Statement:

- (A) **Creation or elimination of jobs within California** – DTSC has made a preliminary determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) **Creation of new businesses or the elimination of existing businesses within California** – DTSC has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.
- (C) **Expansion of businesses currently doing business in California** – DTSC has made a preliminary determination that no businesses in California will be expanded as a result of the proposed regulations.

Effect on Small Businesses:

Since the regulatory changes are non-substantive (delete outdated deadlines for provisions of secondary containment) DTSC has determined that provisions of this rulemaking will have no effect on small businesses.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. DTSC invites interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are posted to DTSC's Internet site at <http://www.dtsc.ca.gov> or may be obtained from Ms. Joan Ferber of DTSC's Environmental Analysis and Regulations Section as specified below. The information upon which DTSC relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

Once regulations have been adopted, DTSC prepares a Final Statement of Reasons which updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Ms. Joan Ferber at the address listed below. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <http://www.dtsc.ca.gov>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Hossein Nassiri of DTSC at (916) 327-4493 or, if unavailable, Eric Maher of DTSC at (916) 325-8559. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends or repeals these regulations. To be included in this regulation package's mailing list, and to receive updates of this rulemaking, please visit <http://www.calepa.ca.gov/Listservs/dtsc/> and subscribe to the applicable Listserv. You may also leave a message on the DTSC mailing list phone line at (916) 324-9933 or e-mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Ms. Joan Ferber, Regulations Coordinator
Environmental Analysis and Regulations Section
Department of Toxic Substances Control

Secondary Containment Regulations
DTSC Reference Number: R-98-21
Page 7

Mailing Address: P.O. Box 806
Sacramento, CA 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323-3215

Ms. Ferber's phone number is (916) 322-6409. If Ms. Ferber is unavailable, please call Ms. Nicole Sotak at (916) 327-4508 or Mr. James McRitchie at (916) 327-8642.